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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,239	06/01/2001	Toru Mineyama	09812.0158-00000	2415

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EXAMINER

HOSSAIN, FARZANA E

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/872,239

Applicant(s)

MINEYAMA, TORU

Examiner

Farzana E. Hossain

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____


**VIVEK SRIVASTAVA
PRIMARY EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: Ellis discloses a remote program guide access device or first terminal apparatus (Figure 2b, 2d, 5, 6a, 6b.). Ellis discloses the remote program guide access device or remote access device could be a personal computer, a portable computer, a display remote, a PDA or other suitable computer based device and the user interface can be any suitable input or output device including a keyboard, pen stylus, mouse, pointing device (Page 7, paragraph 0092). Ellis discloses the access device allows a user to remotely schedule a recording using appropriate command using on screen button or voice command which is read as an input or output device (Page 11, paragraph 0127). Ellis states that Knudson discloses scheduling recordings for a program series which is scheduling recordings for programs. Knudson is incorporated by reference in its entirety in order to schedule recordings (Page 12, paragraph 0128).

Knudson discloses a system, which allows the user to set recordings whether it is to initiate, update, or delete/cancel that recording (Figure 11). Knudson discloses that the user is performing the function of recording via a remote control (Page 9, paragraph 0095). Knudson discloses a set top box with a television (TV) (Figure 2, 28, 36) with an input and output device which may be a pointing device, keyboard, or touchpad. The remote control used to perform the function of recording reads on any input or output device. The Microsoft Computer Dictionary Fifth edition defines set top box as a device that converts a cable TV signal to an input signal to the TV set. Set top box can be used to access the World Wide Web and are a type of information appliance. Information appliance is a specialized computer designed to perform a limited number of functions.

Ellis clearly discloses that the remote access device can perform the function of remotely recording and therefore as Knudson is incorporated by reference can perform functions related to recording which include initiating (scheduling a new recording), updating (editing a scheduled recording) or cancelling (deleting a scheduled recording). Although Knudson does not disclose a remote access device, the incorporation in Ellis indicates that all information in Knudson can be added to the Ellis reference as it deals with recording capabilities. Therefore, the cancel recording feature as disclosed by Knudson incorporated in Ellis can be remotely performed by a user as he can enter the same information in the remote program guide access device (Figure 2d, Page 5, paragraph 0075, Page 15, paragraph 0163, Pages 11-12, paragraph 0127). Also, Knudson discloses that the processing and storing of requests can be stored at the server (Page 8, paragraph 0087). It is necessarily included that a request at a server can be controlled via an input device - which invalidates or deletes the programming. As Ellis clearly discloses recording program functions at the server (Page 11, paragraph 0127, Page 15, paragraph 0163) including updating program guide settings (Abstract, Page 2, paragraphs 0015, 0019), which can read on updating recording functions and that the control command for recording is conducted by the server (Figure 2d, Page 5, paragraph 0075, Page 9, paragraph 0104), then a cancel command incorporated from Knudson in Ellis can also have a cancel command generated at a server via the program guide. A cancel command can be read as updating program guide settings as the feature is part of a program guide.

The applicant indicated that the only motivation to combine these references is given in the application itself. The Office searches for the claim language. Knudson was not combined; Knudson's material is incorporated in Ellis. Incorporation by reference allows subject matter from one application to be included from another application. Although a motivation is not needed, the motivation is to provide a system with program series recording capabilities via a program guide (Page 1, paragraphs 0008, 0009). Ellis is drawn to a remote access invention and Knudson to a recording invention. Ellis indicates the recording invention can be implemented via remote access (Figure 3, 32, Page 11, paragraph 0127, Page 15, paragraph 0163) and proceeds to incorporate more details about recording inventions.



VIVEK SRIVASTAVA
PRIMARY EXAMINER